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Annotated Code of Maryland
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*** CURRENT THROUGH THE 2005 REGULAR SESSION AND CHAPTERS 1 THROUGH 17
OF THE 2006 REGULAR SESSION ***

*** ANNOTATIONS ARE CURRENT THROUGH JUNE 2, 2006 ***

STATE GOVERNMENT
TITLE 10. GOVERNMENTAL PROCEDURES
SUBTITLE 6. RECORDS
PART III. ACCESS TO PUBLIC RECORDS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. STATE GOVERNMENT Code Ann. § 10-612 (2006)

§ 10-612. General right to information

(a) General right to information. — All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.

(b) General construction. — To carry out the right set forth in subsection (a) of this section, unless an unwarranted invasion of the privacy of a person in interest would result, this Part III of this subtitle shall be construed in favor of permitting inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection.

(c) General Assembly. — This Part III of this subtitle does not preclude a member of the General Assembly from acquiring the names and addresses of and statistical information about individuals who are licensed or, as required by a law of the State, registered.

HISTORY: An. Code 1957, art. 76A, §§ 1A, 3; 1984, ch. 284, § 1.

UNIVERSITY OF BALTIMORE LAW REVIEW.—For note discussing executive privilege to prevent disclosure of official information, see *10 U. Balt. L. Rev.* 385 (1981).

UNIVERSITY OF BALTIMORE LAW FORUM.—For article, "Recent Developments: Kirwan v. Diamondback: Records of University Parking Tickets Are Not Protected From Disclosure as Personal or Financial Records Under the Maryland Public Information Act or as Education Records Under Family Education Rights and Privacy Act," see 29.2 U. Balt. Law Forum 63 (1999).

GENERAL CONSTRUCTION.—A public record must be disclosed upon request unless a provision of the Maryland Public Information Act (PIA) or other law prohibits the custodian from disclosing the record, or a provision of the PIA or other law authorizes the custodian to refrain from disclosing it. *77 Op. Att'y Gen.* 183 (November 16, 1992).

TIME LIMITS.—The time limits set forth in the Maryland Public Information Act are important. In this section, the Maryland General Assembly expressed the view that all persons are entitled to have access to information about the affairs of government and the official acts of government officials, and that the statute should be construed in favor of permitting inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection. *Stromberg Metal Works, Inc. v. Univ. of Md.*, 382 Md. 151, 854 A.2d 1220 (2004).

PRIVACY ISSUES NOT TREATED AS EXEMPTIONS—There are no discrete "public interest," "personal information,"

or "unwarranted invasion of privacy" exceptions to the Maryland Public Information Act (MPIA), §§ 10-611 to 10-628 of this subtitle; rather, subsection (b) of this section merely directs that the MPIA be construed more narrowly, and its exemptions more broadly, when privacy issues are at stake but still requires a records custodian to find some basis in law for the denial of a request before choosing to withhold public records, and, although § 10-626 of this subtitle created a civil penalty for the improper disclosure of personal information, it did not create an exemption for personal information but instead made liability under § 10-626 contingent on a finding of a violation of a separate provision of the MPIA. *Police Patrol Sec. Sys. v. Prince George's County*, 378 Md. 702, 838 A.2d 1191 (2003).

911 CALLS—Recordings of calls to 911 emergency telephone system are public records and subject to disclosure under the Public Information Act except for medical or psychological information about an individual, for recordings of calls for police assistance where disclosure would be contrary to public interest and where a court order prevents disclosure. *71 Op. Att'y Gen.* 288 (1986).

SUBMISSION TO DEPOSITION NOT REQUIRED FOR ACCESS—Party to administrative proceeding, pursuant to a proper request under the Maryland Public Information Act contained in this part, cannot first be required to submit to a deposition before receiving surveillance videotapes to which the party is statutorily entitled, given the Act's purpose of providing broad public access, particularly where the subject public records involve the requesting citizen. *Hammen v. Balt. County Police Dep't*, 373 Md. 440, 818 A.2d 1125 (2003).

DISCLOSURE OF RECORDS BY CUSTODIAN PROHIBITED.—Both the clerk of the circuit court, as custodian of personnel records of employees of the clerk's office, and the Administrative Office of the Courts, as official custodian of personnel records relating to employees of the clerk's offices, are prohibited from disclosing those records to a complainant or to a third person, such as a representative of the media. *78 Op. Att'y Gen.* 291 (November 18, 1993).

RIGHT OF INSPECTION NOT LIMITED.—General right of inspection is not limited to "person aggrieved" or "person in interest." *Superintendent, Md. State Police v. Henschen*, 279 Md. 468, 369 A.2d 558 (1977).

TERMINATION OF EMPLOYMENT FOR STATING INTENT TO SEEK RECORDS PROHIBITED.—If an employee is fired for stating a present intent to seek public records under the Maryland Public Information Act (MPIA), § 10-611 et seq. of this subtitle, the public policy behind the MPIA is no less violated than if the employee is fired after actually filing the formal application for the public records. To hold otherwise would create an incentive for employers to preemptively discharge an employee once it learned of his intent to exercise MPIA rights. *Hoffman v. Balt. Police Dep't*, 379 F. Supp. 2d 778 (D. Md. 2005).

Court declined to dismiss an employee's wrongful discharge claim against the City of Baltimore officials, which alleged that he was terminated after declaring his intent to obtain complaint letters through a Maryland Public Information Act request under § 10-611 et seq. of this subtitle, because it alleged the violation of a public policy under § 10-612(a) of this subtitle that would have otherwise been unvindicated; however, the City was entitled to governmental immunity from the claim arising out of a personnel action. *Hoffman v. Balt. Police Dep't*, 379 F. Supp. 2d 778 (D. Md. 2005).

AGENCY PERFORMANCE INFORMATION—Information related to agency performance may be disclosed to the public in a case in which a child has died as a result of abuse and a parent or other person has been arrested on charges related to that abuse. In such a case, Social Security Administration may disclose: (1) whether the child had ever been the subject of a report of suspected abuse; (2) the date on which any such report was received; (3) the dates on which the local department of social services initiated and completed its investigation into the validity of the report; and (4) the general nature of the department's investigation. *71 Op. Att'y Gen.* 368 (1986).

DISCLOSURE OF STATE FUNDING FOR SCHOOL PROGRAM.—Trial court properly granted dismissal pursuant to Md. R. 2-322 to a city board of school commissioners in an educational program provider's action, seeking an accounting for services rendered by the provider, as a cause of action was not stated where there was an adequate remedy at law; the records of funds received from the State for students enrolled in the provider's various programs could have been obtained through various methods of discovery, and as the board was a governmental entity, disclosure was required pursuant to (a). *Alternatives Unlimited, Inc. v. New Baltimore City Bd. of Sch. Comm'rs*, 155 Md. App. 415, 843 A.2d 252 (2004).

STUDENT ATHLETES.—Disclosure of student-athletes' parking ticket records is not an unwarranted invasion of privacy

because it would not subject the student-athletes and their families to extreme embarrassment and humiliation. *Kirwan v. Diamondback*, 352 Md. 74, 721 A.2d 196 (1998).

CONVICTED DEFENDANT'S ACCESS TO PROSECUTORIAL FILE.—A convicted defendant may obtain access to the prosecutorial file concerning the defendant unless one or more of the factors specified in § 10-618(f)(2) of this subtitle exists or unless some other Public Information Act exemption applies; a defendant is not generally entitled to obtain access unless the defendant pays any applicable fees or unless a fee waiver is granted in a particular case. 81 Op. Att'y Gen. 154 (Jan. 31, 1996).

DISCLOSURE OF ADDRESS AND DATE OF EXECUTION OF A SEARCH WARRANT RELATED TO A DRUG VIOLATION.—The State's Attorney's Office may not make available to a community organization the address and date of execution of a search warrant related to a drug violation unless a court order permits the disclosure or the information has otherwise been publicly disclosed, for example, as a result of a criminal prosecution; however, disclosure of that information for purposes of a nuisance abatement action could be an appropriate basis for a court order. 87 Op. Att'y Gen. — (May 20, 2002).

DISCLOSURE OF NAMES AND ADDRESSES OF CRIME VICTIMS.—A custodian of an investigatory record containing the name and address of a victim of crime would be required under the Maryland Public Information Act (PIA) to consider not only the privacy interests of the victim but also assertions about the public interest in disclosure that are made by the requester. In the end, the decision is left to the discretion of the custodian; notwithstanding the privacy interests at stake, the PIA does not forbid such disclosure. 77 Op. Att'y Gen. 183 (November 16, 1992).

NO INVASION OF PRIVACY RIGHTS SHOWN—In granting summary judgment to news organizations in their request for seized documents under the Maryland Public Information Act, the circuit court did not err in failing to consider the interests of a woman whose records were seized and other persons in interest under §§ 10-612, 10-615 and 10-617 of this subtitle because (1) the custodian of the documents failed to present facts showing that disclosure of the information requested would constitute "an unwarranted invasion of" the privacy rights of the alleged interested persons; and (2) the custodian never justified denial of access based on §§ 10-615 or 10-617 of this subtitle, either in her written response to the request or in her testimony. *City of Frederick v. Randall Family, LLC*, 154 Md. App. 543, 841 A.2d 10 (2004).

APPLIED IN *Mayor of Baltimore v. Burke*, 67 Md. App. 147, 506 A.2d 683, cert. denied, 306 Md. 118, 507 A.2d 631 (1986); *Prince George's County v. Wash. Post Co.*, 149 Md. App. 289, 815 A.2d 859 (2003).

QUOTED IN *Mayor of Baltimore v. Maryland Comm. Against Gun Ban*, 329 Md. 78, 617 A.2d 1040 (1993); *Fioretti v. Maryland State Bd. of Dental Exmrs.*, 351 Md. 66, 716 A.2d 258 (1998); *Bowen v. Davison*, 135 Md. App. 152, 761 A.2d 1013 (2000); *Blythe v. State*, 161 Md. App. 492, 870 A.2d 1246 (2005).

CITED IN *Massey v. Galley*, 154 Md. App. 437, 840 A.2d 183 (2003); *Univ. Sys. v. Balt. Sun Co.*, 381 Md. 79, 847 A.2d 427 (2004).